

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SIA HENRY, *et al.*, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

BROWN UNIVERSITY, *et al.*,

Defendants.

Case No.: 22-cv-00125

Hon. Matthew F. Kennelly

JULY 11, 2023, JOINT STATUS REPORT

I. Plaintiffs' Statement of Relevant Issues

Plaintiffs provide an update regarding the following five items for the Court. Plaintiffs seek the Court's immediate attention on only one item. Plaintiffs request the court extend the July 11 motion deadline regarding "AEO" designated documents until July 21, as the Parties have made significant progress and hope they can resolve all or nearly all the outstanding issues.

First, the Parties have agreed to a proposal for the end of written discovery and related dates. The Parties jointly submit the following proposed schedule, in light of the existing January 31, 2024 fact discovery cutoff:

Deadline to Propound Written Discovery Requests	September 30, 2023
Deadline to Respond to Written Discovery Requests	October 30, 2023
Deadline to file motions with respect to written discovery	November 15, 2023

Plaintiffs also believe that if deposition testimony after these deadlines reveals the existence of unproduced responsive documents, a Party should be entitled to demand production of such documents. The Parties are still discussing how and whether to address this in the joint schedule. The Parties will submit a stipulated schedule after the conference on July 24, 2023.

Second, the Parties have resolved their dispute about amending the Confidentiality Order, and will shortly be submitting a revised stipulated Confidentiality Order containing new provisions for using "Attorneys' Eyes Only" documents at depositions.

Third, in the last status report Plaintiffs raised an issue with Defendants producing "the Consensus Methodology elements as used in each year over the past 20 years" as well as the "full set of color books" from each Defendant. Dkt. No. 377 at 6. The Parties have engaged in fruitful negotiations since that last status report. Defendants have since produced more such documents and, if they have not already, have largely committed to producing any remaining such documents

in their possession. In addition, COFHE has committed to producing a full set of the color books for the relevant time period. Plaintiffs are currently inventorying what has been produced to determine any remaining gaps to be addressed.

Fourth, the Parties have largely resolved the AEO issues, after a series of fruitful discussions regarding certain Defendants' excessive AEO designations. It now appears that, for most Defendants, any continuing disputes regarding AEO designation can be resolved through the provisions of the Confidentiality Order. The same conclusion applies to Defendant Vanderbilt University, subject to that Defendant's agreement as of July 10 to conduct a re-review and re-designation of the AEO-designated documents produced to date, based on previously used search terms, and Plaintiffs' review of those revised designations. Defendant MIT is undertaking a further review of its documents with a commitment to reduce the number of AEO designations and will report back to Plaintiffs by July 18 on their progress. In an abundance of caution, Plaintiffs will be filing a motion to extend by ten (10) days their time to file a motion against MIT based on its excess designation of AEO documents. That motion to extend time will be unopposed.

Fifth, in the previous JSR of June 9, the Plaintiffs reported that they were working constructively with Defendants to resolve issues related to the meaning of data fields and completeness of the data productions in the Defendants' structured databases for Admissions and Financial Aid. This topic was also briefly addressed during the last status conference (at pp. 16-17). After meeting and conferring, the parties agreed by email on July 9 that this informal process will continue, with Defendants reserving their right to highlight certain issues they believe are more properly addressed through formal discovery.

II. Defendants' Statement of Relevant Issues

Defendants are not aware of any all-party discovery disputes or issues requiring the Court's attention.

Defendants believe that discovery is progressing appropriately. Five fact witnesses associated with Defendant schools have now been deposed, four additional depositions will occur this week, and over a dozen others have been scheduled for later this summer. Defendants also have noticed the first deposition to be taken of a named Plaintiff, and expect other notices to be served shortly. In recent weeks, Plaintiffs have served amended Interrogatory responses, and Defendants are currently reviewing those responses. Negotiations with various third-parties for discovery responsive to Rule 45 subpoenas are underway, and those discussions are making good progress. In particular, Defendants note that counsel for COFHE has committed to produce a full set of the "colorbooks" for the relevant time period, which we expect should alleviate Plaintiffs' questions about receiving a comprehensive set of those documents from each Defendant.

Defendants also note that the parties have recently amicably resolved their disagreements relating to a proposed amendment to the Confidentiality Order and a process for continuing to address any structured data questions that arise as Plaintiffs' analysis of Defendants' data moves forward. As to the level of "Attorneys' Eyes Only" designations, that issue has been resolved as to all Defendants except MIT. MIT is working diligently with Plaintiffs to resolve this issue. MIT does not oppose Plaintiffs' request for a 10-day extension to file a motion on the AEO issue, should one be necessary.

Dated: July 11, 2023

Respectfully submitted,

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